

ASSEMBLY BILL

No. 903

Introduced by Assembly Member Cunningham

February 16, 2017

An act to amend Section 34019 of the Revenue and Tax Code, relating to marijuana, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 903, as introduced, Cunningham. California Marijuana Tax Fund: California Highway Patrol.

(1) Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative statute approved by the voters at the November 8, 2016, statewide general election as Proposition 64, among other things, establishes the California Marijuana Tax Fund as a continuously appropriated fund consisting of specified taxes, interest, penalties, and other amounts imposed by AUMA. AUMA requires, after other specified disbursements are made from the fund, the Controller to disburse the sum of \$3,000,000 annually to the Department of the California Highway Patrol beginning fiscal year 2018–2019 until fiscal year 2022–2023, and requires the department to use those funds to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies.

This bill would amend AUMA by requiring the department to use its annual appropriation from the fund to study the viability of standards for marijuana impairment.

(2) AUMA authorizes legislative amendment of its provisions with a $\frac{2}{3}$ vote of both houses of the Legislature, without submission to the voters, to further its purposes and intent.

This bill would declare that its provisions further specified purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34019 of the Revenue and Taxation Code
2 is amended to read:

3 34019. (a) Beginning with fiscal year 2017–2018 the
4 Department of Finance shall estimate revenues to be received
5 pursuant to Sections 34011 and 34012 and provide those estimates
6 to the Controller no later than June 15 of each year. The Controller
7 shall use these estimates when disbursing funds pursuant to this
8 section. Before any funds are disbursed pursuant to subdivisions
9 (b), (c), (d), and (e) of this section, the Controller shall disburse
10 from the Tax Fund to the appropriate account, without regard to
11 fiscal year, the following:

12 (1) Reasonable costs incurred by the board for administering
13 and collecting the taxes imposed by this ~~part; provided, however,~~
14 ~~such part.~~ Those costs shall not exceed 4 percent of tax revenues
15 received.

16 (2) Reasonable costs incurred by the bureau, the Department of
17 Consumer Affairs, the Department of Food and Agriculture, and
18 the State Department of Public Health for implementing,
19 administering, and enforcing Chapter 3.5 (commencing with
20 Section 19300) of Division 8 of the Business and Professions Code
21 and Division 10 (commencing with Section 26000) of the Business
22 and Professions Code to the extent those costs are not reimbursed
23 pursuant to Section 26180 of the Business and Professions Code
24 or pursuant to Chapter 3.5 (commencing with Section 19300) of
25 Division 8 of the Business and Professions Code. This paragraph
26 shall remain operative through fiscal year 2022–2023.

27 (3) Reasonable costs incurred by the Department of Fish and
28 Wildlife, the State Water Resources Control Board, and the
29 Department of Pesticide Regulation for carrying out their respective

1 duties under Chapter 3.5 (commencing with Section 19300) of
2 Division 8 or Division 10 (commencing with Section 26000) of
3 the Business and Professions Code to the extent those costs are
4 not otherwise reimbursed.

5 (4) Reasonable costs incurred by the Controller for performing
6 duties imposed by the Control, Regulate and Tax Adult Use of
7 Marijuana—~~Act, Act (the act)~~, including the audit required by
8 Section 34020.

9 (5) Reasonable costs incurred by the State Auditor for
10 conducting the performance audit pursuant to Section 26191 of
11 the Business and Professions Code.

12 (6) Reasonable costs incurred by the Legislative Analyst's Office
13 for performing duties imposed by Section 34017.

14 (7) Sufficient funds to reimburse the Division of Labor
15 Standards Enforcement and the Division of Occupational Safety
16 and Health within the Department of Industrial Relations and the
17 Employment Development Department for the costs of applying
18 and enforcing state labor laws to licensees under Chapter 3.5
19 (commencing with Section 19300) of Division 8 and Division 10
20 (commencing with Section 26000) of the Business and Professions
21 Code.

22 (b) The Controller shall next disburse the sum of ten million
23 dollars (\$10,000,000) to a public university or universities in
24 California annually beginning with fiscal year 2018–2019 until
25 fiscal year 2028–2029 to research and evaluate the implementation
26 and effect of the ~~Control, Regulate and Tax Adult Use of Marijuana~~
27 ~~Act, act~~, and shall, if appropriate, make recommendations to the
28 Legislature and Governor regarding possible amendments to the
29 ~~Control, Regulate and Tax Adult Use of Marijuana Act. act~~. The
30 recipients of these funds shall publish reports on their findings at
31 a minimum of every two years and shall make the reports available
32 to the public. The bureau shall select the universities to be funded.
33 The research funded pursuant to this subdivision shall ~~include~~
34 *include*, but not necessarily be limited to:

35 (1) Impacts on public health, including health costs associated
36 with marijuana use, as well as whether marijuana use is associated
37 with an increase or decrease in use of alcohol or other drugs.

38 (2) The impact of treatment for maladaptive marijuana use and
39 the effectiveness of different treatment programs.

1 (3) Public safety issues related to marijuana use, including
2 studying the effectiveness of the packaging and labeling
3 requirements and advertising and marketing restrictions contained
4 in the act at preventing underage access to and use of marijuana
5 and marijuana products, and studying the health-related effects
6 among users of varying potency levels of marijuana and marijuana
7 products.

8 (4) Marijuana use rates, maladaptive use rates for adults and
9 youth, and diagnosis rates of marijuana-related substance use
10 disorders.

11 (5) Marijuana market prices, illicit market prices, tax structures
12 and rates, including an evaluation of how to best tax marijuana
13 based on potency, and the structure and function of licensed
14 marijuana businesses.

15 (6) Whether additional protections are needed to prevent
16 unlawful monopolies or anti-competitive behavior from occurring
17 in the nonmedical marijuana industry and, if so, recommendations
18 as to the most effective measures for preventing such behavior.

19 (7) The economic impacts in the private and public sectors,
20 including, but not necessarily limited to, job creation, workplace
21 safety, revenues, taxes generated for state and local budgets, and
22 criminal justice impacts, including, but not necessarily limited to,
23 impacts on law enforcement and public resources, short and long
24 term consequences of involvement in the criminal justice system,
25 and state and local government agency administrative costs and
26 revenue.

27 (8) Whether the regulatory agencies tasked with implementing
28 and enforcing the ~~Control, Regulate and Tax Adult Use of~~
29 ~~Marijuana Act~~ *act* are doing so *in a manner* consistent with the
30 purposes of the act, and whether different agencies might do so
31 more effectively.

32 (9) Environmental issues related to marijuana production and
33 the criminal prohibition of marijuana production.

34 (10) The geographic location, structure, and function of licensed
35 marijuana businesses, and demographic data, including race,
36 ethnicity, and gender, of license holders.

37 (11) The outcomes achieved by the changes in criminal penalties
38 made under the ~~Control, Regulate and Tax Adult Use of Marijuana~~
39 ~~Act~~ *act* for marijuana-related offenses, and the outcomes of the
40 juvenile justice system, in particular, probation-based treatments

1 and the frequency of up-charging illegal possession of marijuana
2 or marijuana products to a more serious offense.

3 (c) The Controller shall next disburse the sum of three million
4 dollars (\$3,000,000) annually to the Department of the California
5 Highway Patrol beginning fiscal year 2018–2019 until fiscal year
6 2022–2023 to establish and adopt protocols to determine whether
7 a driver is operating a vehicle while impaired, including impairment
8 by the use of marijuana or marijuana products, *to study the viability*
9 *of standards for marijuana impairment*, and to establish and adopt
10 protocols setting forth best practices to assist law enforcement
11 agencies. The department may hire personnel to establish the
12 protocols specified in this subdivision. In addition, the department
13 may make grants to public and private research institutions for the
14 purpose of developing technology for determining when a driver
15 is operating a vehicle while impaired, including impairment by
16 the use of marijuana or marijuana products.

17 (d) The Controller shall next disburse the sum of ten million
18 dollars (\$10,000,000) beginning fiscal year 2018–2019 and
19 increasing ten million dollars (\$10,000,000) each fiscal year
20 thereafter until fiscal year 2022–2023, at which time the
21 disbursement shall be fifty million dollars (\$50,000,000) each year
22 thereafter, to the Governor’s Office of Business and Economic
23 Development, in consultation with the Labor and Workforce
24 Development Agency and the State Department of Social Services,
25 to administer a community reinvestments grants program to local
26 health departments and at least 50 percent to qualified
27 community-based nonprofit organizations to support job placement,
28 mental health treatment, substance use disorder treatment, system
29 navigation services, legal services to address barriers to reentry,
30 and linkages to medical care for communities disproportionately
31 affected by past federal and state drug policies. The office shall
32 solicit input from community-based job skills, job placement, and
33 legal service providers with relevant expertise as to the
34 administration of the grants program. In addition, the office shall
35 periodically evaluate the programs it is funding to determine the
36 effectiveness of the programs, shall not spend more than 4 percent
37 for administrative costs related to implementation, ~~evaluation~~
38 *evaluation*, and oversight of the programs, and shall award grants
39 annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in fiscal year 2018–2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate ~~about~~ *about*, and to ~~prevent~~ *prevent*, substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their ~~families~~ *families*, and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, ~~fostercare~~ *foster care* providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance ~~use~~, *use* and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

1 (C) Grants to programs for outreach, ~~education~~ *education*, and
2 treatment for homeless youth and out-of-school youth with
3 substance use disorders.

4 (D) Access and linkage to care provided by county behavioral
5 health programs for youth, and their families and caregivers, who
6 have a substance use disorder or who are at risk for developing a
7 substance use disorder.

8 (E) Youth-focused substance use disorder treatment programs
9 that are culturally and gender competent, ~~trauma-informed,~~
10 ~~evidence-based~~ *trauma informed, evidence based*, and provide a
11 continuum of care that includes screening and assessment
12 (substance use disorder as well as mental health), early
13 intervention, active treatment, family involvement, case
14 management, overdose prevention, prevention of communicable
15 diseases related to substance use, relapse management for substance
16 use and other ~~co-occurring~~ *cooccurring* behavioral health disorders,
17 vocational services, literacy services, parenting classes, family
18 therapy and counseling services, medication-assisted treatments,
19 psychiatric medication and psychotherapy. When indicated,
20 referrals ~~must~~ *shall* be made to other providers.

21 (F) To the extent permitted by law and where indicated,
22 interventions shall utilize a two-generation approach to addressing
23 substance use disorders with the capacity to treat youth and adults
24 together. This would include supporting the development of
25 family-based interventions that address substance use disorders
26 and related problems within the context of families, including
27 parents, foster parents, ~~caregivers~~ *caregivers*, and all their children.

28 (G) Programs to assist individuals, as well as families and
29 friends of drug using young people, to reduce the stigma associated
30 with substance ~~use~~ *use*, including being diagnosed with a substance
31 use disorder or seeking substance use disorder services. This
32 includes peer-run outreach and education to reduce stigma,
33 anti-stigma campaigns, and community recovery networks.

34 (H) Workforce training and wage structures that increase the
35 hiring pool of behavioral health staff with substance use disorder
36 prevention and treatment ~~expertise~~. ~~Provide expertise, including~~
37 ~~providing~~ ongoing education and coaching that increases substance
38 use treatment providers' core competencies and trains providers
39 on promising and evidenced-based practices.

40 (I) Construction of community-based youth treatment facilities.

1 (J) The departments may contract with each county behavioral
2 health program for the provision of services.

3 (K) Funds shall be allocated to counties based on demonstrated
4 need, including the number of youth in the county, the prevalence
5 of substance use disorders among adults, and confirmed through
6 statistical data, validated ~~assessments~~ *assessments*, or submitted
7 reports prepared by the applicable county to demonstrate and
8 validate need.

9 (L) The departments shall periodically evaluate the programs
10 they are funding to determine the effectiveness of the programs.

11 (M) The departments may use up to 4 percent of the moneys
12 allocated to the Youth Education, Prevention, Early Intervention
13 and Treatment Account for administrative costs related to
14 implementation, ~~evaluation~~ *evaluation*, and oversight of the
15 programs.

16 (N) If the Department of Finance ever determines that funding
17 pursuant to marijuana taxation exceeds demand for youth
18 prevention and treatment services in the state, the departments
19 shall provide a plan to the Department of Finance to provide
20 treatment services to adults as well as youth using these funds.

21 (O) The departments shall solicit input from volunteer health
22 organizations, physicians who treat addiction, treatment
23 researchers, family therapy and counseling providers, and
24 professional education associations with relevant expertise as to
25 the administration of ~~any~~ grants made pursuant to this paragraph.

26 (2) Twenty percent shall be deposited in the Environmental
27 Restoration and Protection ~~Account~~, *Account* and disbursed by the
28 Controller as follows:

29 (A) To the Department of Fish and Wildlife and the Department
30 of Parks and Recreation for the cleanup, remediation, and
31 restoration of environmental damage in watersheds affected by
32 marijuana cultivation and related ~~activities~~ *activities*, including,
33 but not limited to, damage that occurred prior to enactment of this
34 part, and to support local partnerships for this purpose. The
35 Department of Fish and Wildlife and the Department of Parks and
36 Recreation may distribute a portion of the funds they receive from
37 the Environmental Restoration and Protection Account through
38 grants for purposes specified in this paragraph.

39 (B) To the Department of Fish and Wildlife and the Department
40 of Parks and Recreation for the stewardship and operation of

1 state-owned wildlife habitat areas and state park units in a manner
2 that discourages and prevents the illegal cultivation, production,
3 ~~sale~~ *sale*, and use of marijuana and marijuana products on public
4 lands, and to facilitate the investigation, ~~enforcement~~ *enforcement*,
5 and prosecution of illegal cultivation, production, sale, and use of
6 marijuana or marijuana products on public lands.

7 (C) To the Department of Fish and Wildlife to assist in funding
8 the watershed enforcement program and multiagency taskforce
9 established pursuant to subdivisions (b) and (c) of Section 12029
10 of the Fish and Game Code to facilitate the investigation,
11 enforcement, and prosecution of these ~~offenses~~ *offenses*, and to
12 ensure the reduction of adverse impacts of marijuana cultivation,
13 production, sale, and use on fish and wildlife habitats throughout
14 the state.

15 (D) For purposes of this paragraph, the Secretary of the Natural
16 Resources Agency shall determine the allocation of revenues
17 between the departments. During the first five years of
18 implementation, first consideration should be given to funding
19 purposes specified in subparagraph (A).

20 (E) Funds allocated pursuant to this paragraph shall be used to
21 increase and enhance activities described in subparagraphs (A),
22 (B), and (C), and not replace allocation of other funding for these
23 purposes. Accordingly, annual General Fund appropriations to the
24 Department of Fish and Wildlife and the Department of Parks and
25 Recreation shall not be reduced below the levels provided in the
26 Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

27 (3) Twenty percent shall be deposited into the State and Local
28 Government Law Enforcement Account and disbursed by the
29 Controller as follows:

30 (A) To the Department of the California Highway Patrol for
31 conducting training programs for detecting, ~~testing~~ *testing*, and
32 enforcing laws against driving under the influence of alcohol and
33 other drugs, including driving under the influence of marijuana.
34 The department may hire personnel to conduct the training
35 programs specified in this subparagraph.

36 (B) To the Department of the California Highway Patrol to fund
37 internal California Highway Patrol programs and grants to qualified
38 nonprofit organizations and local governments for education,
39 ~~prevention~~ *prevention*, and enforcement of laws related to driving
40 under the influence of alcohol and other drugs, including marijuana;

1 programs that help enforce traffic laws, educate the public in traffic
2 safety, provide varied and effective means of reducing fatalities,
3 ~~injuries~~ *injuries*, and economic losses from collisions; and for the
4 purchase of equipment related to enforcement of laws related to
5 driving under the influence of alcohol and other drugs, including
6 marijuana.

7 (C) To the Board of State and Community Corrections for
8 making grants to local governments to assist with law enforcement,
9 fire protection, or other local programs addressing public health
10 and safety associated with the implementation of the ~~Control,~~
11 ~~Regulate and Tax Adult Use of Marijuana Act.~~ *act*. The board
12 shall not make any grants to local governments ~~which~~ *that* have
13 banned the cultivation, including personal cultivation under
14 paragraph (3) of subdivision (b) of Section 11362.2 of the Health
15 and Safety Code, or retail sale of marijuana or marijuana products
16 pursuant to Section 26200 of the Business and Professions Code
17 or as otherwise provided by law.

18 (D) For purposes of this paragraph, the Department of Finance
19 shall determine the allocation of revenues between the agencies;
20 provided, however, beginning in fiscal year 2022–2023 the amount
21 allocated pursuant to subparagraph (A) shall not be less than ten
22 million dollars (\$10,000,000) annually and the amount allocated
23 pursuant to subparagraph (B) shall not be less than forty million
24 dollars (\$40,000,000) annually. In determining the amount to be
25 allocated before fiscal year 2022–2023 pursuant to this paragraph,
26 the Department of Finance shall give initial priority to
27 subparagraph (A).

28 (g) Funds allocated pursuant to subdivision (f) shall be used to
29 increase the funding of programs and purposes identified and shall
30 not be used to replace allocation of other funding for these
31 purposes.

32 (h) Effective July 1, 2028, the Legislature may amend this
33 section by a majority vote to further the purposes of the ~~Control,~~
34 ~~Regulate and Tax Adult Use of Marijuana Act,~~ *act*, including
35 allocating funds to programs other than those specified in
36 subdivisions (d) and (f). Any revisions pursuant to this subdivision
37 shall not result in a reduction of funds to accounts established
38 pursuant to subdivisions (d) and (f) in any subsequent year from
39 the amount allocated to each account in fiscal year 2027–2028.

1 Prior to July 1, 2028, the Legislature may not change the
2 allocations to programs specified in subdivisions (d) and (f).

3 SEC. 2. The Legislature finds and declares that this act furthers
4 the purposes and intent of the Control, Regulate and Tax Adult
5 Use of Marijuana Act, for the following reason:

6 This act would enhance the ability of the Department of the
7 California Highway Patrol to improve enforcement of the laws
8 relating to driving under the influence of alcohol and drugs,
9 including marijuana.

O